IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 2813 of 2000

Between:

J.M.Naidu, S/o.J.Pitchi Naidu, R/o.D.No.50-104-2, TPT Colony, Visakhapatnam.

..... PETITIONER

AND

1 Visakhapatnam Municipal Corporation, Rep. by its Commissioner, Visakhapatnam.
2 Kodali Sree Ramachandra Rao, S/o. K.Radha Krishnaiah, R/o. D.No.1-1-100/1/3, N.H.Road, Plot NO.243, Sector 4, MVP Colony, Visakhapatnam.

(R-2 is impleaded as per Court order, dated 05.09.2000 in W.P.M.P.No.20088 of 2000, dated 05.09.2000)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ, order or direction, more particularly, one in the nature of writ of mandamus declaring the attempted action of the respondent and its officials to demolish his building in an extent of 624 Square yards in plot No.HIG 244/4, Survey No.10 of Venkojipalem of Muvvalavaripalam Layout, Hamlet of Maddilapalem, Visakhapatnam Municipal Corporation, Visakhapatnam on 19-2-2000 without issuing any show cause notice and notice under Sec.452 of the HMC Act and before passing any orders on BRS Application No.3291/98 dated 31-8-1998 as illegal, arbitrary, capricious and violative of principles of natural justice and the provisions of Sec.452 of the HMC Act and BRS Scheme and consequently to direct the respondents not to demolish his building except under due process of law by giving show cause notice and also pending consideration of BRS application No.3291/98 dt 31-8-98.

Counsel for the Petitioner:SMT.N.(P).ANJANA DEVI & Sri SATYANARAYANA

Counsel for the Respondent No.1: MR.T.S.VENKATARAMANA

Counsel for respondent No.2: T.S.Anand

The Court made the following :

O R D E R:

This writ petition is filed seeking writ of Mandamus declaring the action of the 1st respondent and its officials in attempting to demolish his building in an extent of 624 square yards in Plot No.HIG 244/4, Survey No.10 of Venkojipalem of Muvvalavaripalem Layout, Hamlet of Maddipalem, Visakhapalem Municipal Corporation, Visakhapatnam, on 19.02.2000 without issuing any show cause notice and notice under Section 452 of the Hyderabad Municipal Corporation Act as arbitrary and illegal.

The specific case of the petitioner is that the building in question has been constructed strictly in accordance with the permission granted by the 1st respondent-Municipal Corporation and the action of the 1st respondent in proposing to demolish the same without issuing any notice to the petitioner and without affording any opportunity to the petitioner as arbitrary and illegal and in violation of the principles of natural justice.

It is not disputed by the learned counsel for the respondents that a notice under Section 452 of the Hyderabad Municipal Corporation Act, which is mandatory, has not been served on the petitioner.

In the circumstances, without going into the merits of the case, the writ petition is disposed of with a direction to the respondents not to demolish the building in question without issuing a notice to the petitioner as required under law.

The writ petition is accordingly disposed of. No costs.

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G.ROHINI.J.,

14th December, 2004.

tjs

ASSISTANT REGISTRAR

To

1. The Commissioner, Visakhapatnam Municipal Corporation, Visakhapatnam

2. 2CD copies